

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

YODANIA CASTILLO PADILLA
Plaintiff,

vs.

TIMOTHY CHARLES HUTSON, GT EXPRESS,
INC. and TRUCK AND TRAILER GROUP,
L.L.C.,
Defendants.

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CIVIL ACTION NO. 4:21-cv-1417

JURY TRIAL REQUESTED

**DEFENDANTS GT EXPRESS, INC. AND TRUCK AND TRAILER GROUP, L.L.C.'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C § 1332(a), 1441, and 1446, Defendants GT Express, Inc. and Truck and Trailer Group, L.L.C. hereby give notice of the removal of this cause of action to the United States District Court for the Southern District of Texas, Houston Division. Defendants GT Express, Inc. and Truck and Trailer Group, L.L.C. state, as grounds for removal, the following:

PROCEDURAL STATUS OF THE CASE

1. Plaintiff, YODANIA CASTILLO PADILLA filed this action in the 80th Judicial District Court of Harris County, Texas on March 17, 2021. It carries the case style of *Cause No. 2021-15368/Court: 080; Yodania Castillo Padilla v. Timothy Charles Hutson, GT Express, Inc. and Truck and Trailer Group, L.L.C.; In the 80th Judicial District, Harris County, Texas.*

2. The Judicial District Clerk of Harris County, Texas issued its citation to Defendant Timothy Charles Hutson on or about March 17, 2021.¹

¹ See Ex. D (Return of Service Undeliverable on Defendant Timothy Charles Hutson); We have not received confirmation that this service was ever received by Defendant Hutson.

3. The Judicial District Clerk of Harris County, Texas issued its citation to Defendant GT Express, Inc. on or about March 17, 2021.²

4. The Judicial District Clerk of Harris County, Texas issued its citation to Defendant Truck and Trailer Group, LLC on or about March 17, 2021.³

5. Defendants are filing this Notice of Removal within 30 days of receipt of Plaintiff's Original Petition, and prior to filing an Original Answer.

6. All pleadings, process, orders, and other filings in the state court action accompany this notice. *See* 28 U.S.C. § 1446(a).

7. This Notice of Removal is being filed in the record office of the Clerk of the United States District Court for the Southern District of Texas, Houston Division.

8. Defendants will promptly file a copy of this Notice of Removal with the Harris County District Clerk.

BACKGROUND

9. This case arises out of a motor vehicle accident that occurred outside of the city limits in Brazoria County, Texas on October 7, 2019. The people allegedly involved in the collision were: Plaintiff/Driver Yodania Castillo Padilla and Defendant Driver, Timothy Charles Hutson. Plaintiff claims she suffered personal injuries as a result of the alleged negligence of Defendant, Timothy Charles Hutson.

10. Plaintiff, Yodania Castillo Padilla, is a resident of Harris County, Texas.

² *See* Ex. E (Return of Service on Defendant GT Express, Inc.); GT Express received service through its registered agent in Illinois on April 19, 2021.

³ *See* Ex. F (Return of Service on Defendant Truck and Trailer Group, LLC); GT Express received service through its registered agent in Illinois on April 19, 2021.

11. Defendant Timothy Charles Hutson, upon information and belief, resides in Pennsylvania and is a citizen of the State of Pennsylvania.

12. Defendant GT Express, Inc. is a foreign corporation with its principal place of business located in the State of Illinois.⁴

13. Defendant Truck and Trailer Group, LLC is a foreign limited liability corporation with its principal place of business located in the State of Illinois.⁵

BASIS FOR ORIGINAL FEDERAL COURT JURISDICTION

14. Plaintiff Yodania Castillo Padilla demands judgment in an amount over \$1,000,000⁶ and the Plaintiff and Defendants in this matter are all citizens of different States. The United States District Court therefore has original jurisdiction of this matter according to 28 U.S.C. § 1332(a).

PROPRIETY OF REMOVAL

15. This Notice of Removal is timely because it is filed within thirty (30) days of Defendant GT Express, Inc.'s receipt of the Plaintiff's Original Petition, in accordance with 28 U.S.C § 1446(b).

16. On information and belief, no other defendant has been properly served with citation so consent to removal is unnecessary. 28 U.S.C. § 1446(b)(2)(A).

17. This court has original jurisdiction of this matter under 28 U.S.C § 1332(a).

18. Except as otherwise expressly provided by an Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing

⁴ See Ex. H (Certificate of Good Standing for Illinois).

⁵ See Ex. I (Certificate of Good Standing for Illinois – Truck & Trailer).

⁶ See Ex. C (Plaintiff's Original Petition).

the venue where the state court action was pending. *See* 28 U.S.C § 1446(a). The state court action that is the subject of this notice of removal is pending in Harris County, Texas, which is found in the Southern District of Texas, Houston Division. Therefore, venue of this removed action is proper in this Court and Division.

19. Removal is not barred by 28 U.S.C. § 1445. Defendant Timothy Charles Hutson is not a citizen or resident of the State of Texas, so removal is not prohibited by 28 U.S.C. § 1441(b). Defendant GT Express, Inc., is a corporation organized in Illinois with its principal place of business located in the State of Illinois. Defendant Truck and Trailer Group, LLC, is a limited liability corporation with its principal place of business located in the State of Illinois.

20. Pursuant to 28 U.S.C § 1446(a) and Rule 81 of the Federal Rules of Civil Procedure, Defendants have attached hereto:

- (1) A list of all parties in the case, their party type, and the current status of the removed case;
- (2) A civil cover sheet and copy of the state court docket sheet; a copy of all pleadings that assert causes of action; all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court (if any);
- (3) A complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number, and party or parties represented by him or her;
- (4) A record of which parties have requested trial by jury; and
- (5) The name and address of the Court from which the case is being removed.

REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

21. If Plaintiff Yodania Castillo Padillo contests this removal, Defendants request:
- a. A hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter;
 - b. The opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and

- c. Leave to conduct limited discovery related to those issues.

JURY DEMAND

22. Defendants demand a jury trial.

WHEREFORE, PREMISES CONSIDERED, Defendants Timothy Charles Hutson, GT Express, Inc. and Truck and Trailer Group, LLC remove the above captioned action from the 80TH District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

THE FUENTES FIRM, P.C.

/s/ Juan Roberto Fuentes

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**ATTORNEYS FOR DEFENDANTS GT
EXPRESS, INC. AND TRUCK AND TRAILER
GROUP, LLC**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per W. Dist. Tex. Loc. R. LR5.1. A true and correct copy of the foregoing Defendant's Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this 29th day of April 2021.

/s/ Juan Fuentes

JUAN FUENTES